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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,293	10/27/2003	Clyde R. Schulte	306217	2775

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LEYDIG, VOIT & MAYER, LTD.
(SEATTLE OFFICE)
TWO PRUDENTIAL PLAZA
SUITE 4900
CHICAGO, IL 60601-6780

EXAMINER

LU, JIPING

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,293	SCHULTE, CLYDE R.	
	Examiner	Art Unit	
	Jiping Lu	3749	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21, 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 12-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed limitation of “latching mechanism is arranged sufficiently adjacent to the handle so that a user may, with a single hand, simultaneously actuate the latching mechanism and grasp the handle” in claim 12 and the claimed limitation of “the second latching mechanism is arranged sufficiently adjacent to the second handle so that a user may, with a single hand, simultaneously actuate the second latching mechanism and grasp the second handle” in claim 13 are new matters which do not supported by originally filed specification.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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4. Claims 1-4, 7-8, 11-15 and 18-19, 25-27 are rejected under 35 USC 102(e) as being anticipated by DeMars (U. S. Pat. 6,606,987).

DeMars shows a portable grill 14 comprising a firebox 12, fold out legs 226, fold out wheels 254, 256, a handle 216, locking mechanism 220,222, 252 for wheels, a latching mechanism 204, 206, 208 for attaching firebox, second handle 116 connected to the firebox, same as claimed. The wheels 254,256 may be folded and stored under the grill 14 (at pivot point 252) of the first position. The legs 226 may be folded and stored under the grill (at the pivot point 246) of the second position. Claims 1 now merely calls for a portable grill is “configurable between” two positions. There is no structure recited to define such “configurability”. Claim 1 merely recites an ability to configure. DeMars clearly has the ability to configure between a first position where fold out legs 226, 228 are folded outward to support the grill and the fold out wheels 254, 256 are folded inward toward the firebox and a second position in which the fold out legs 226, 228 are folded inward under the firebox and the fold out wheels 254,256 are folded outward from the firebox relative to the first position so that the grill may be transported on the wheels.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 5-6 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMars (U. S. Pat. 6,606,987) in view of Williams et al. (U. S. Pat. 6,792,935).

The portable grill of DeMars as above includes all that is recited in claims 5-6 and 16-17 except for the foldable handle. Williams et al. shows a portable grill with foldable handle 26 same as the applicant's. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the portable grill of DeMars to include a foldable hand as taught by Williams et al. in order to conserve storage space.

7. Claims 9-10 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMars (U. S. Pat. 6,606,987) in view of Rhodes (U. S. Pat. 3,297,016).

The portable grill of DeMars as above includes all that is recited in claims 9-10 and 20-21 except for the spring biased latch mechanism. Rhodes shows a spring bias latch mechanism 50 with locking notches same as the applicant's. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute locking mechanism of the folded out wheels of DeMars with spring bias latch mechanism of Rhodes in order to facilitate installation and uninstallation.

Response to Arguments

8. Applicant's arguments filed 7/15/2005 have been fully considered but they are not persuasive to overcome the rejection. Broad claims presented fail to structurally define over the prior art references. The applicant is requested to point out from the claims exactly which structural limitations that the prior art references do not show or teach. Claim 1 merely calls for an ability to configure two positions without and structure or means plus function language. Therefore, it is the examiner's position that the prior art references are capable to be configured in any way or shape as one desires. DeMars's portable grill clearly has the ability to configure

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between a first position where fold out legs 226, 228 are folded outward to support the grill (at a tilted configuration) and the fold out wheels 254, 256 are folded inward toward the firebox and a second position in which the fold out legs 226,228 are folded inward under the firebox and the fold out wheels 254,256 are folded outward from the firebox relative to the first position so that the grill may be transported on the wheels.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping La
Primary Examiner
Art Unit 3749

J. L.